

CONFRONTING **SEXISM** **HOMOPHOBIA** **RACISM** **IN EUROPE**

**Social and Legal
Perspectives**

Edited by
Luca Trappolin,
Alessandro Gasparini
and Robert Wintemute

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CONFRONTING HOMOPHOBIA IN EUROPE

Homophobia exists in many different forms across Europe. Member States offer uneven levels of legal protection for lesbian and gay rights; at the same time the social meanings and practices relating to homosexuality are culturally distinct and intersect in complex ways with gender, class and ethnicity in different national contexts.

The essays in this volume illustrate the findings of a European project on homophobia and fundamental rights in which sociologists and legal experts have analysed the position in four Member States: Italy, Slovenia, Hungary and the UK.

The first part of the book investigates the sociological dimensions of homophobia through qualitative methods involving both heterosexual and self-defined lesbian and gay respondents, including those in ethnic communities. The aim is to understand how homophobia and homosexuality are defined and experienced in the everyday life of participants.

The second part is devoted to a legal analysis of how homophobia is reproduced 'in law' and how it is confronted 'with law'. The analysis examines statute and case law; 'soft law'; administrative practices; the discussion of bills within parliamentary committees; and decisions of public authorities. Among the areas discussed are 'hate crimes' and 'hate speech'; education at all levels; free movement, immigration and asylum; and cross-border reproductive services.

Foreword

GUSTAVO GUIZZARDI

We could approach this volume from this standpoint: a social group feels discriminated against and reacts to the phenomenon of debasement it suffers. Depicting itself as an ‘active minority’ (Melucci 1996), such group exposes and counteracts the negativity imposed on it by society. Study and analysis are, in this way, combined with the issue of agency. It is therefore useful to detect at least some of the elements of such connection.

One of the main goals of anti-homophobic policies is protection at institutional level through juridical norms which remove negativity, confront discrimination, punish the people causing it and defend minorities’ rights. Here we have the neo-liberal framework of fundamental rights and universal citizenship equality. The formulation, apparently simple and unquestionable, is actually complex and articulated. The legislative factor, be it of *common* or *civil* law, represents a necessary objective to be achieved, but it may reveal itself as insufficient. Such a factor is necessary in order to remove from the juridical system provisions—both evident and hidden, both written and applied—which produce actual discrimination and debasement; it is also necessary in order to legitimise and implement positive actions driven by legislation. Such distinction between homophobia *in law* and opposing homophobia *with law* is depicted in the analyses of the juridical chapters in the second part of the book, which deal with issues connected with the differences among juridical and institutional systems in the European Union. The aim is ambitious: to overcome existing diversities at State level, from a supranational standpoint, typical of the building process of the EU.

Once realised, as in the case of the United Kingdom, analysis and action concerning legal rules appear important, as they give force to and legitimise the voice of groups and individuals (Putnam 2000); give the opportunity to come out of the closet and of the situation of discrimination; legitimise objective and subjective positions seeking recognition (Honneth 1992). From thereon, however, structural and cultural latent phenomena come to light, revealing how they are deeper and more persistent than the basically ‘enlightened’ and partly elitist action, which is a substantial part of the legislative institutional dimension.

At this level, intersectionalities and resistances reveal themselves as deeply rooted and profound and they show how long-term analyses and actions are necessary.

The first point concerns the culture of heterosexuality and the relationship between heterosexuality and homosexuality which is not symmetric. The subjects questioned in the sociological case studies of the first part of the book clearly

recognise this point, but at the same time they prove that they experience it in different ways, depending on which one of the two positions they place themselves in.

Heterosexuals, at first sight, prove to be open-minded, liberal and modern: from their point of view, there is and there should be no discrimination, because it has no reason to exist. Lesbians and gays, on the other hand, declare discrimination and denounce it openly. The denial of a conflict by a dominant group, while such conflict is perceived and exposed by the homosexual group, de-legitimises the very possibility of a voice for the discriminated group. The latter, from the point of view of the dominant culture, has no reason to complain, since the problem does not exist. Victimisation, when denounced, may appear incongruous and be downgraded as an improper complaint. We could ask ourselves whether this could be a possible unintentional effect of legislative interventions, and whether there may be a connection with the spread at national and European level of wider attitudes of tolerance. In other words, the spread of an ideology of equal dignity and protection of rights may contain, together with surely positive aspects, a paradoxical one: the paternalistic solution, by the dominant group, of granting fictitious recognition to marginalised groups, hiding, and hence denying, real inequalities behind the veil of political correctness. This makes more sense the more the causes of discrimination are labelled as pathologies, considered as occurrences to be fought and extirpated (and this is the positive aspect), but to be kept on the margins of a system that continues to be valid in its substantial structure.

Lesbians and gays oppose this solution, bringing to light their everyday experience, recalling the symbolic violence—often subtle but relevant—they suffer, as well as actual acts of violence, perhaps less widespread but certainly occurring. Inconsistency between the opinions of the hegemonic group and the everyday practices of its members seems then a general phenomenon, which van Dijk (1991) would define as ‘implicit racism’.

At this point, the situation becomes more complicated for different reasons. The simplest reason is that there are, at a structural level, collective dimensions occurring, making the situation much less dynamic. Collective factors can be found in the secondary socialisation system, that is, school; in the creation of collective representations, that is, media; in the codification of interpretive systems, that is, religion. These factors can work in active ways, for example keeping and nurturing aversions, stereotypes and prejudices; or in passive ways, through censorship and silencing. Interactions with the peer group, depicted as crucial for individuals subjected to implicit or explicit degradation ceremonies, appear as specific places of operative intersections between institutional and everyday life, and reveal the deep, even if not always explicit, conflict existing within the institutional system.

But the deepest aspects of the domination of the hegemonic group are found on two levels. One is institutional, that is the family; the other pertains to the reciprocal collocation of groups (heterosexuals and homosexuals), which are

considered as placed in a binary dimension, although the context is much more complex and articulated.

'The family' is one of the obstacles to the processes of transformation described in the book, as it contradicts a privatisation of the conflict, showing the limits of the reassuring neoliberal solution, which does not judge behaviour in the private sphere, as long as it does not spread into the public sphere and question its shared foundations. At family level, as a matter of fact, gender articulations seem important but secondary features, instead the basic aspect remains in the dual differentiation of sex (Bimbi 2009; Di Cori 2000). This is, in essence, the core of the contradiction exposed by the claim for, and the legally-recognised possibility of, creating lesbian and gay families, even with children.

There are many possible motivations in defence or in denial of such families. As regards denial, there is the issue of the 'nature' of the heterosexual composition of the family, which reifies institution of the family, de-historicises it and confines it to a sort of 'naturalised nature', preventing any kind of solution to the conflict. Another argument for denial is the appeal for the 'tradition' of the family, although it takes into account the historical and social variations in the family's formation. The conservative content remains, even if covered by a subtle pluralistic gloss, because the potential change is deferred to an unforeseeable and distant future, while the superiority of the dominant institutional system ('our tradition') is stated at the expense of other possible 'traditions'.

Those who advocate homosexual and homoparental families also use the issue of the 'nature' of the family, but they do so from a different basis, that is, the right to form a family. This is a normative interpretation of 'nature', which favours the institution over the specific features of its members. A second argument is the challenge to the sexual basis of the family, replaced by a more modern element, that is, reciprocal love. This is surely a point of opposition to the hegemonic culture, but it is not anti-traditional, as it maintains the stability of family and it does not deny its continuity. The perpetuation of new life inside lesbian and gay families is, as a matter of fact, achievable through techniques which have become 'natural', as they are culturally available, even if not equally widespread and accessible in every country.

So, the argumentative strategy of subordinate groups goes through different dimensions; it tries to demolish from the inside the system of legitimization of the hegemonic group, accepting its structure and, at the same time, changing its application.

Nevertheless, even in postmodern complexity, social stratifications of intersectionality are steadily at work. Differences are elements of intervention, among them the difference pertaining to ethnic communities is important, but others could be brought to light. On the surface, it appears that according to some immigrant groups (see chapter six), homosexuality and even more, homoparental families, are a Western disease, a feature of total decay of the acceptable rules of behaviour, of 'immorality'. In this case, the group perceives itself as an absolute 'Other', it reifies its own interpretive system and its own rules of conduct,

together with the Western ones. Is this the 'clash of civilisations', seen from the other side? This question remains open. Certainly, the research on homophobia inside ethnic communities brings to the surface more general tensions connected to their integration in the societies they live in. We could, for example, suppose that migrants and Western people questioned in the research give different meanings to the concept of family. Whereas the Western debate refers to the nuclear family, interpretations emerging from ethnic communities refer to the extended family, which not only maintains strong parental bonding, but also specific duties, centralised authority and diffused social control. So the conflict does not rise from the family founded on sexual diversity anymore, but from the family reduced to the couple. This is the main element of opposition between ethnic communities and Western culture, since the nuclear family is by far the most widespread one and then it stands as an actual alternative. In other words, family represents an area of problematic tensions motivated by the transnationality of ethnic families' experiences.

The second point showing the deep rootedness of the heterosexual hegemony is the heterosexual-homosexual distinction. We know that, at the theoretical level, this distinction is very weak, above all because it detects in sexuality the cornerstone of a classification which is fundamental. Nonetheless, it seems to be useful but at the same time fragile, to be maintained, but at the same time overcome. Why this ambivalence? In my opinion we could answer by placing such distinction in a particular historical situation of the struggles for recognition (Honneth 1992). The basic tension is between group and subject, between the collective and the individual dimension.

The point of arrival of these struggles is the reciprocal recognition, among autonomous subjects, of the value of everyone within an accepted plurality of values, of the possibility, collectively recognised, of responsibly pursuing a quality of life that is considered worthy. So sexuality disappears as a basic and discriminating characteristic, as it is absorbed by a wider exchange of reciprocal esteem inside a plurality of possible options. The starting point is the collective classification of individuals by putting them inside a group, which is given a value (in our case a negative value, above all, perceived as negative by the group itself), regardless of the personal value given to any single member. This is what Max Weber defined as status allocation. The intermediate point is the need to act as a group, and to accept being identified as a group, moreover to underscore such belonging, even at the cost of reducing the individualising feature, which tends to affirm the autonomy of the subject. At the macro level, as a matter of fact, we are assisting in a continuous cultural conflict in which various groups try to affirm their way of life as worthy of value and to transform into recognition what is experienced as reciprocal solidarity within the group. The processual instrumentality is visible, and so is its contingent necessity. It is worth underlining how the situation is provisional, and how it will end not with the 'victorious affirmation' of the instances of the group, but rather with the dissolution of the group itself, caused by its dynamic and inner purposes.

Foreword

Legislative action, in this intermediate phase, confirms its own importance and fully shows its own meaning. The cultural aim, which is probably more important and certainly more long-lasting, reveals the difficulties of the path. The provisional feature is one of these, together with the need for some action, for example stressing the differences between the dominated and dominant group, in order to get attention and visibility. The contradiction between the tactical goal and strategic aims of the minority group causes strong tensions within it. However, it is also possible that the binary model, at least in the medium term, ends up being a regulatory practice confirmed by the hegemony of the heterosexual group. This is a practice which creates coherent and stable identities at the normative level in order to maintain culturally understandable notions of identity, at the expense of an actual process of personification, as Judith Butler puts it with regard to the concept of 'metaphysics of substance' (1990).

A question about the structural aspect remains: how do institutions, for example the family and the law, act within a pluralistic and globalised society, where not only different cultures but also diverse institutional systems—connected in different ways to the whole social system—live together and confront each other? This question may become the subject of future research.

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